

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

WILLIAM ALLEN B.,¹

Plaintiff,

v.

KILOLO KIJAKAZI,²
Commissioner of Social Security,

Defendant.

Case No. 3:21-cv-00098-JMK-KFR

ORDER

Before the Court at Docket 18 is Plaintiff's "Motion to Reverse the Commissioner's Decision and Remand to the Agency" (the "Motion"). Defendant responded in opposition at Docket 19, to which Plaintiff replied at Docket 20. On April 12, 2022, the Motion was referred to the Honorable Magistrate Judge Kyle F. Reardon. At Docket 22, Judge Reardon issued his "Proposed Finding of Fact and Recommendation to Remand for Further Proceedings," in which he recommended that the Motion be granted. Defendant did not file an objection.³

¹ Plaintiff's name is partially redacted in compliance with Fed. R. Civ. P. 5.2(c)(2)(B) and the recommendation of the Committee on Court Administration and Case Management of the Judicial Conference of the United States. See Memorandum, Committee on Court Administration and Case Management of the Judicial Conference of the United States (May 1, 2018), available at https://www.uscourts.gov/sites/default/files/18-cv-lsuggestion_cacm_0.pdf.

² Kilolo Kijakazi is now the Acting Commissioner of Social Security and automatically is substituted as a party pursuant to Fed. R. Civ. P. 25(d). *See also* Section 205(g) of the Social Security Act, 42 U.S.C. 405(g) (action survives regardless of any change in the person occupying the office of Commissioner of Social Security).

³ Judge Reardon issued his Proposed Finding of Fact and Recommendation on July 18, 2022, with objections due by August 1, 2022. *See* Docket 22.

The matter is now before this Court pursuant to 28 U.S.C. § 636(b)(1). That statute provides that a district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.”⁴ A court is to “make a de novo determination of those portions of the magistrate judge’s report or specified proposed findings or recommendations to which objection is made.”⁵ But as to those topics on which no objections are filed, “[n]either the Constitution nor [28 U.S.C. § 636(b)(1)] requires a district judge to review, de novo, findings and recommendations that the parties themselves accept as correct.”⁶

Judge Reardon recommends that this Court grant Plaintiff’s Motion. The Court has reviewed his “Proposed Finding of Fact and Recommendation to Remand” and agrees with its analysis. With no objection filed by Defendant, the Court adopts the “Proposed Finding of Fact and Recommendation to Remand” at Docket 22.

Accordingly, IT IS ORDERED that the motion at Docket 18 is GRANTED, the Commissioner’s final decision is VACATED, and this matter is REMANDED for further proceedings.

IT IS SO ORDERED this 9th day of August, 2022, at Anchorage, Alaska.

/s/ Joshua M. Kindred
JOSHUA M. KINDRED
United States District Judge

⁴ 28 U.S.C. § 636(b)(1).

⁵ *Id.*

⁶ *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003); *see also Thomas v. Arn*, 474 U.S. 140, 150 (1985) (“It does not appear that Congress intended to require district court review of a magistrate’s factual or legal conclusions, under a *de novo* or any other standard, when neither party objects to those findings.”).